

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

X

ALESSIO MARTINO,

Plaintiff,

-against -

ARCHDIOCESE OF NEW YORK and CHURCH OF
ST. CLARE OF ASSISI,

Defendants.

X

To the above-named defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case your failure to appear or answer, judgement will be taken for the relief demanded herein.

**A COPY OF THIS SUMMONS WAS FILED WITH THE CLERK OF THE COURT,
BRONX COUNTY ON _____ IN COMPLIANCE WITH CPLR §§305(a) AND
306(a).**

Dated: New York, New York
August 14, 2019

MERSON LAW, PLLC

By:



Jordan K. Merson
Attorneys for Plaintiff
150 East 58th Street 34th Floor
New York, New York 10155
(212) 603-9100

TO:

ARCHDIOCESE OF NEW YORK

1011 1st Avenue,
New York, NY 10022

CHURCH OF ST. CLARE OF ASSISI

1918 Paulding Avenue
Bronx, NY 10462

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.: _____/19

ALESSIO MARTINO,

-X

Plaintiff,

-against -

**VERIFIED
COMPLAINT**

ARCHDIOCESE OF NEW YORK and CHURCH OF
ST. CLARE OF ASSISI,

Defendant.

X

Plaintiff(s), above named, complaining of the defendants, by MERSON LAW,

PLLC., respectfully allege(s):

NATURE OF THE CLAIM

1. This is a case of plaintiff Alessio Martino who was sexually abused as a child by Deacon Joseph Weckbach ("Weckbach) at and of the Church of St. Clare of Assisi ("St. Clare of Assisi") and Archdiocese of New York ("Archdiocese").
2. Weckbach was a deacon at the Church of St. Clare of Assisi in Bronx, New York which was part of the Archdiocese. Weckbach was known among the community and the children as a sexual predator.
3. Despite the Archdiocese's and St. Clare of Assisi's knowledge that Weckbach sexually abused children and/or had the propensity to sexually abuse children, the Archdiocese and the St. Clare of Assisi allowed Weckbach unfettered access to children.
4. Beginning in or about 1982 and continuing until approximately 1984, while under the scope of employment with the Archdiocese and the St. Clare of Assisi and while acting on behalf of the Archdiocese and the St. Clare of Assisi, Weckbach would sexually

abuse Mr. Martino on diocese premises, then between eleven and fourteen years old, almost daily by kissing him, fondling him, forcing him to engage in mutual masturbation and other forms of sexual abuse.

5. Mr. Martino was sexually abused by Weckbach at least two hundred times.
6. Mr. Martino brings this lawsuit to recover for the emotional and physical suffering he endured because of the negligence of the Archdiocese of New York and St. Clare of Assisi and to make sure no other child is forced to suffer the abuse and physical and mental trauma he felt and continues to feel.

PARTIES

7. At all times herein mentioned defendant **ARCHDIOCESE OF NEW YORK** was a not for profit corporation incorporated in the state of New York and by virtue of the laws of the State of New York.
8. At all times herein mentioned, defendant **ARCHDIOCESE OF NEW YORK** was located at 1011 1st Avenue, New York, New York 10022.
9. At all times herein mentioned, Weckbach was a priest operating under the direction and control of defendant **ARCHDIOCESE OF NEW YORK**, and its agents, servants and/or employees.
10. At all times herein mentioned, Weckbach was an agent, servant and/or employee of defendant **ARCHDIOCESE OF NEW YORK**.
11. At all times herein mentioned defendant **CHURCH OF ST. CLARE OF ASSISI** was a corporation incorporated in the state of New York and by virtue of the laws of the State of New York.

12. At all times herein mentioned, defendant **CHURCH OF ST. CLARE OF ASSISI** was located at 1918 Paulding Avenue, Bronx, New York 10462.
13. At all times herein mentioned, Weckbach was a priest operating under the direction and control of defendant **CHURCH OF ST. CLARE OF ASSISI**, and its agents, servants and/or employees.
14. At all times herein mentioned, Weckbach was an agent, servant and/or employee of defendant **CHURCH OF ST. CLARE OF ASSISI**.
15. At all times herein mentioned, Defendant **ARCHDIOCESE OF NEW YORK** and Defendant **CHURCH OF ST. CLARE OF ASSISI** were agents, servants, employees and/or alter egos of each other.

FACTS OF THE CASE

16. Defendants **ARCHDIOCESE OF NEW YORK's** and **CHURCH OF ST. CLARE OF ASSISI's** negligence and recklessness caused Weckbach to have access to children, including on Diocese Premises, despite its knowledge that Weckbach sexually abused children and/or had the propensity to sexually abuse children and therefore are responsible for the injuries that Plaintiff incurred because but for Defendants **ARCHDIOCESE OF NEW YORK's** and **CHURCH OF ST. CLARE OF ASSISI's** negligence, Plaintiff would not have suffered the mental and physical anguish inflicted by Weckbach. Defendants' gross negligence, reckless, wanton, and/or willful conduct supports punitive liability.
17. Weckbach sexually assaulted Mr. Martino and many other young patrons, students and children of St. Clare of Assisi in Bronx, New York. Nonetheless, defendants **ARCHDIOCESE OF NEW YORK** and **CHURCH OF ST. CLARE OF ASSISI**

failed to remove Weckbach from his position as a deacon or to take any steps to keep the dangerous predator away from children. In fact, the **ARCHDIOCESE OF NEW YORK** and **CHURCH OF ST. CLARE OF ASSISI** continued to allow, encourage and/or permit Weckbach to have unfettered access to children.

18. At all times herein mentioned, Weckbach was in charge of the altar boys. Weckbach used this position of authority to force the boys to accompany him to the rectory and teachers' lounge where he would routinely abuse them.
19. In approximately 1982 and continuing through approximately 1984, Weckbach would sexually abuse Mr. Martino at school in the teacher's lounge, in the rectory basement of St. Clare of Assisi, at a movie theatre, in Weckbach's car and other places.
20. Weckbach routinely instructed Mr. Martino and other boys to accompany him to the teachers' lounge where he forced Mr. Martino and other boys to smoke cigarettes and kiss him. Weckbach told the boys that kissing him on the lips was a sign of respect.
21. Weckbach instructed Mr. Martino to go to the teacher's lounge with him almost every day after recess where he would have candy and treats for them. He would line up Mr. Martino and other boys and touch each of their penises one by one. Weckbach would also take off his pants and masturbate in front of the children. Weckbach would force Mr. Martino and the other boys to take turns touching his penis until he ejaculated.
22. Weckbach would frequently take Mr. Martino and other boys to the movies and other amusement venues. On the car rides, Weckbach would provide the boys with porn and encourage them to masturbate while in the car and promised them gifts and rewards if they obliged.

23. If Mr. Martino refused the sexual encounters with Weckbach, Weckbach would beat him in front of the other boys.
24. Frequently, Weckbach called on Mr. Martino to grade tests.
25. Weckbach manipulated Mr. Martino to not disclose his predatory behavior by using his position of authority as a priest as provided by the Archdiocese and telling him that no one would believe anything that Mr. Martino said against him and that people would laugh at Mr. Martino if they knew.
26. As a result of the actions of Weckbach, Mr. Martino felt and continues to feel ashamed and uncomfortable.
27. As such, Plaintiff suffered catastrophic and lifelong injuries as a result of defendants **ARCHDIOCESE OF NEW YORK's** and **CHURCH OF ST. CLARE OF ASSISI's** negligence in undertaking a duty, including but not limited to *in locis parentis*, in failing to protect the children of its parishes and of its community safe from Weckbach despite defendants **ARCHDIOCESE OF NEW YORK** and **CHURCH OF ST. CLARE OF ASSISI** having knowledge that Weckbach sexually abused children and/or had the propensity to sexually abuse children, and/or allowing Weckbach to continue to have his position of authority and power, and the Diocese failed to adequately supervise Weckbach.

**AS AND FOR A FIRST CAUSE OF ACTION FOR NEGLIGENCE
AS FOR THE ARCHDIOCESE OF NEW YORK**

28. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 27., inclusive, with the same force and effect as if hereinafter set forth at length.

29. At all times mentioned herein, defendant **CHURCH OF ARCHDIOCESE OF NEW YORK** owed a duty of care, including but not limited to in locis parentis, to keep the young patrons, students and children of its parishes safe from sexual abuse by its clergymen under its supervision and control, including on company premises, that ultimately befell the plaintiff, and they had a duty to supervise Weckbach.
30. At all times mentioned herein, defendant **CHURCH OF ARCHDIOCESE OF NEW YORK** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiff to be sexually assaulted.
31. As a result of the negligence of defendant **CHURCH OF ARCHDIOCESE OF NEW YORK** and/or its agents, servants and/or employees, plaintiffs were caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
32. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.
33. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.
34. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
35. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A SECOND CAUSE OF ACTION FOR NEGLIGENCE
AS FOR THE CHURCH OF ST. CLARE OF ASSISI

36. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 35., inclusive, with the same force and effect as if hereinafter set forth at length.
37. At all times mentioned herein, defendant **CHURCH OF ST. CLARE OF ASSISI** owed a duty of care, including but not limited to in locis parentis, to keep the young patrons, students and children of its parishes safe from sexual abuse by its clergymen under its supervision and control, including on company premises, that ultimately befell the plaintiff, and they had a duty to supervise Weckbach.
38. At all times mentioned herein, defendant **CHURCH OF ST. CLARE OF ASSISI** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiff to be sexually assaulted.
39. As a result of the negligence of defendant **CHURCH OF ST. CLARE OF ASSISI** and/or its agents, servants and/or employees, plaintiffs were caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
40. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.
41. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.
42. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

43. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A THIRD CAUSE OF ACTION FOR NEGLIGENT HIRING,
RETENTION AND SUPERVISION
AS FOR THE ARCHDIOCESE OF NEW YORK

44. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 43., inclusive, with the same force and effect as if hereinafter set forth at length.
45. Defendant **ARCHDIOCESE OF NEW YORK**, had a duty to supervise and prevent known risks of harm to the young patrons, students and children of its parishes by its clergymen.
46. Defendant was negligent in hiring, retaining and supervising their personnel, such as Weckbach, who were careless, unskillful, negligent, reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of deacons and church officials and other church supervisors who should have properly been supervising the deacons and church officials to ensure the safety of the children of its parishes.
47. Defendant **ARCHDIOCESE OF NEW YORK** knew or should have known Weckbach sexually abused and/or had the propensity to sexually abuse children and did nothing to stop it.
48. As a result of such negligent hiring, supervising and retention, Plaintiff was caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

49. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.
50. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.
51. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
52. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A FOURTH CAUSE OF ACTION FOR NEGLIGENT HIRING,
RETENTION AND SUPERVISION
AS FOR THE CHURCH OF ST. CLARE OF ASSISI

53. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 52., inclusive, with the same force and effect as if hereinafter set forth at length.
54. Defendant **CHURCH OF ST. CLARE OF ASSISI**, had a duty to supervise and prevent known risks of harm to the young patrons, students and children of its parishes by its clergymen.
55. Defendant was negligent in hiring, retaining and supervising their personnel, such as Weckbach, who were careless, unskillful, negligent, reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of deacons and church officials and other church supervisors who should have properly been supervising the deacons and church officials to ensure the safety of the children of its parishes.

56. Defendant **CHURCH OF ST. CLARE OF ASSISI** knew or should have known Weckbach sexually abused and/or had the propensity to sexually abuse children and did nothing to stop it.
57. As a result of such negligent hiring, supervising and retention, Plaintiff was caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
58. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.
59. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.
60. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
61. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR THE FIFTH CAUSE OF ACTION FOR NEGLIGENT INFILCTION
OF EMOTIONAL DISTRESS
AS FOR THE ARCHDIOCESE OF NEW YORK**

62. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 61., inclusive, with the same force and effect as if herein set forth at length.
63. Defendant **ARCHDIOCESE OF NEW YORK** and their agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise, supervise and hire Weckbach, the deacon who sexually abused Plaintiff, would and did proximately result in physical and emotional distress to Plaintiff.

64. Defendant **ARCHDIOCESE OF NEW YORK** and their agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiff.
65. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiff being sexually abused by Weckbach.
66. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted in Weckbach sexually abusing Plaintiff.
67. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.
68. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.
69. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
70. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR THE SIXTH CAUSE OF ACTION FOR NEGLIGENT INFILCTION
OF EMOTIONAL DISTRESS AS FOR THE CHURCH OF ST. CLARE OF ASSISI**

71. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 70., inclusive, with the same force and effect as if herein set forth at length.
72. Defendant **CHURCH OF ST. CLARE OF ASSISI** and their agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise,

supervise and hire Weckbach, the deacon who sexually abused Plaintiff, would and did proximately result in physical and emotional distress to Plaintiff.

73. Defendant **CHURCH OF ST. CLARE OF ASSISI** and their agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiff.
74. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiff being sexually abused by Weckbach.
75. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted in Weckbach sexually abusing Plaintiff.
76. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.
77. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.
78. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
79. This action falls within exceptions to Article 16 of the C.P.L.R.

WHEREFORE, plaintiff demands judgement against defendants in such sum as a jury would find fair, adequate and just.

Dated: New York, New York
August 14, 2019

MERSON LAW, PLLC

By: 
Jordan K. Merson

Attorney for Plaintiffs
150 East 58th Street 34th Floor
New York, New York 10155
(212) 603-9100

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.: _____/19

-----X

ALESSIO MARTINO,

Plaintiff,
-against -

**ATTORNEY
VERIFICATION**

ARCHDIOCESE OF NEW YORK and CHURCH
OF ST. CLARE OF ASSISI,

Defendant.

-----X

JORDAN K. MERSON, an attorney duly admitted to practice in the Courts of New York State, and a member of the firm MERSON LAW, PLLC., attorneys for the plaintiffs in the within action, hereby affirms under penalty of perjury:

That he has read the within complaint and knows the contents thereof, and that the same is true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

That the sources of his information and knowledge are investigations and records in the file.

That the reason this verification is made by affirmant and not by the plaintiff is that the plaintiff is not within the County where the attorney has his office.

Dated: New York, New York
August 14, 2019



JORDAN K. MERSON

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Year 2019

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

ALESSIO MARTINO,

Plaintiff(s),

- against -

ARCHDIOCESE OF NEW YORK and CHURCH OF
ST. CLARE OF ASSISI.,

Defendant(s),

SUMMONS AND VERIFIED COMPLAINT

Merson Law, PLLC.

Attorneys for Plaintiff(s)

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To: All Parties
